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**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

RHONDA BRACKETT,

Plaintiff,

vs.

**PRESTIGE MAINTENANCE, USA A/K/A
PRESTIGE CLEANING SERVICE, J. C.
PENNEY CORPORATION, INC., et al.,**

Defendants.

Civil Action Number:

NOTICE OF REMOVAL

ELECTRONICALLY FILED

Defendant, Prestige Maintenance USA a/k/a Prestige Cleaning Service (“Prestige”), through its counsel, McElroy, Deutsch, Mulvaney & Carpenter, LLP, hereby submits this Notice of Removal pursuant to 28 U.S.C § 1441, et seq., and allege the following against plaintiff, Rhonda Brackett (“plaintiff”):

1. On or about March 6, 2020, plaintiff commenced a civil action against Prestige and J. C. Penney Corporation, Inc. (“J. C. Penney”), in the Superior Court of New Jersey, Essex County, Law Division, Docket No. ESX-L-1838-20 (hereinafter, “State Action”).
2. On or about April 2, 2020, plaintiff filed an Amended Complaint.
3. A true and accurate copy of the Complaint and Summons and Amended

Complaint filed by plaintiff in the State Action are attached to the Affidavit of Diana M. Hendry, Esq. submitted herewith (“Hendry Aff.”) as Exhibit A and constitute all process, pleadings and orders filed in the State Action.

4. On March 31, 2020, the Summons and Complaint were served on Prestige. Hendry Aff., Exhibit B.

5. This Notice of Removal, which is being filed within thirty (30) days of receipt of the Summons and Complaint in the State Action, is timely filed under 28 U.S.C. § 1446(b).

6. Plaintiff resides in the Township of Montclair, County of Essex, New Jersey. Id., Exhibit A.

7. Upon information and belief, plaintiff is a citizen of the State of New Jersey. Ibid.

8. At the time the State Action was filed, Prestige was and continues to be a corporation organized and existing by virtue of the laws of the State of Texas with its principal place of business at 7460 W 100th Place, Bridgeview IL 60455. Id., ¶ 5.

9. At the time the State Action was filed, co-defendant J. C. Penney was and continues to be a corporation organized and existing by virtue of the laws of the State of Delaware with its principal place of business at 6501 Legacy Drive, Plano, Texas 75024. Id., ¶ 6.

10. Accordingly, at the time the State Action was filed, and at the present time, there is complete diversity of citizenship between plaintiff and all identifiable defendants, as contemplated by 28 U.S.C. § 1332 and by 28 U.S.C. § 1441. There are no defendants that defeat the complete diversity.

11. The Amended Complaint contains two counts; the count against Prestige seeks monetary damages for personal injuries and damages allegedly sustained by plaintiff. Id., Exhibit A.

12. While New Jersey Court Rules prohibit specifically pleading the amount of monetary damages sought in a personal injury action, plaintiff Rhonda Brackett claims that “the culpable party or parties, their agents, servants and/or employees, [] caused or contributed to the Plaintiff, Rhonda Brackett’s accident and injuries . . . thereby causing her to be painfully and permanently injured, and otherwise damaged as previously set forth at length herein.” Ibid.

13. I initially sent an email to plaintiff’s counsel on March 17, 2020, regarding the issue of removal. Id., ¶ 9.

14. I subsequently spoke with plaintiff’s counsel on the telephone, regarding the issue of removal and he was not amenable to stipulating to damages less than \$75,000. Id., ¶ 10.

15. On April 29, 2020, I emailed plaintiff’s counsel to confirm that he was not willing to stipulate on behalf of his client to damages less than the jurisdictional threshold with regard to defendant Prestige. Id., ¶ 11.

16. I have not received a reply to that email. Id., ¶ 12.

17. Plaintiff has not made a settlement demand. Id., ¶ 13.

18. A subpoena was issued for records pertaining to plaintiff. Id., ¶ 14.

19. As a result, Prestige has obtained certain medical records. Id., ¶ 15.

20. In those medical records is a report by Dr. Robin M. Gehrmann of Collegiate Orthopaedics & Sports Medicine Institute. Id., Exhibit C.

21. Dr. Gehrmann summarizes plaintiff's medical treatment and diagnoses. Id.

22. Dr. Gehrmann's impression includes the opinion that "I feel she has developed complex regional pain syndrome involving her left knee. . . I feel she would benefit from evaluation by a pain management physician who could potentially perform some nerve blocks as well as comprehensive physical therapy." Id.

23. Dr. Gehrmann relates her symptoms to the incident at issue. Id.

24. Complex regional pain syndrome is a very serious diagnosis that can lead to significant damages if proven.

25. Based on the allegations in the Amended Complaint, plaintiff's counsel's representations regarding plaintiff's injuries, medical records including those cited above, together with plaintiff's refusal to stipulate to limit damages, there exists sufficient information to state that the amount in controversy exceeds \$75,000.00.

26. The requirement under 28 U.S.C. § 1446(b) that all defendants served with the Amended Complaint join in the notice of removal has been satisfied as this Notice of Removal is being filed on behalf of Prestige and co-defendant J. C. Penney consents to removal. Id., ¶ 21

27. Venue is proper in this District under 28 U.S.C. § 1441(a) because this District and vicinage embrace the place where the removed action is pending.

WHEREFORE, J. C. Penney prays that the State Action be removed to this Court.

Dated: April 30, 2020

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CARPENTER, LLP
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Prestige Maintenance USA

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